

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

JAMES SEABA and CORY PHILLIPS,

Plaintiffs,

v.

MESOSYSTEMS TECHNOLOGY, INC.,

Defendant.

NO. CIV-02-0103 LH/RHS

03 MAY 15 AM 10:59

**DEFENDANT'S RESPONSE TO PLAINTIFFS' MOTION TO  
VACATE AND RE-SET SETTLEMENT CONFERENCE**

COMES NOW Defendant MesoSystems Technology, Inc., and hereby files this  
its Response to Plaintiffs' Motion to Vacate and Re-Set Settlement Conference.

On, April 8, 2003, the Court entered an Order Setting Settlement Conference for  
June 25, 2003. On May 9, 2003, Plaintiffs filed a Motion to Vacate and Re-Set the  
Settlement Conference scheduled for June 25, 2003 (the "Motion"). As grounds for the  
Motion, Plaintiffs represents to this Court that "Plaintiff James Seaba, on behalf of his  
employer, is scheduled to be at the Montreaux [sic] Energy Roundtable, in Montreaux,  
[sic] Switzerland on June 25, 2003."

The Motion conveniently fails to disclose to this Court that the Montreux Energy  
Roundtable is scheduled for June 16-18, 2003. The conference ends a full week before  
the June 25, 2003 Settlement Conference. See Montreux Energy Roundtable XIV  
Registration Information attached as **Exhibit A**. Mr. Seaba is simply one of three  
panelists on a 90 minute session scheduled to conclude at 10:30 AM local time on June  
18, 2003. See **Exhibit A**.

In his affidavit attached to the Motion, James Seaba states that his presentation is on June 18, 2003. Mr. Seaba further indicates that he has a "business meeting near Frankfurt, Germany from June 23 to 24, 2003" and that he will return to the United States on June 25, 2003. See Affidavit of James Seaba, Ph.D. ¶ 3 attached as Exhibit A to the Motion. Neither the Motion nor Mr. Seaba's affidavit disclose to the Court that the Switzerland Roundtable actually ends on June 18, 2003.

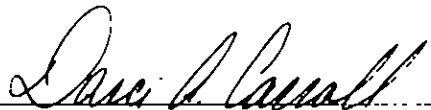
While James Seaba's attendance at the Roundtable may have some importance to his work, the relevance of the Frankfurt meeting is also conveniently omitted. In fact, the Motion does not even mention the Frankfurt meeting. The Motion simply states that James Seaba will be "at the Montreaux [sic] Energy Roundtable, in Montreaux, [sic] Switzerland on June 25, 2003." See Motion, p.1. According to James Seaba's own affidavit, that statement in the Motion is utterly false. One can only conclude that Plaintiffs once more are attempting to deceive this Court and MesoSystems.

In the Motion, Plaintiffs claim that "Plaintiff James Seaba and his employer will suffer significant hardship if he is unable to attend the conference in Switzerland". Plaintiffs' fail to explain the nature of any "significant hardship" Plaintiff James Seaba will suffer if required to attend the Settlement Conference in Albuquerque on June 25, 2003, one full week after the Switzerland conference ends.

WHEREFORE, Defendants respectfully request that the Court enter its Order denying Plaintiffs' Motion and for the Settlement Conference in this case to take place as scheduled on June 25, 2003.

DATED: May 15, 2003.


**BAUMAN, DOW, McINTOSH & LEÓN, P.C.**

By   
Alberto A. León  
Darci A. Carroll  
Attorneys for Defendant  
PO Box 30684  
Albuquerque, New Mexico 87190  
(505) 883-3191-telephone  
(505) 883-3194-facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Response to Plaintiffs' Motion to Vacate and Re-Set Settlement Conference was ~~mailed via U.S. Mail~~ *hand delivered* to the following, on this 15<sup>th</sup> day of May 2003.

Lisa Mann  
Angelo J. Artuso  
Erin E. Langenwalter  
MODRALL LAW FIRM  
Attorneys for Plaintiffs  
PO Box 2168  
Albuquerque, New Mexico 87103-2168  
(505) 848-1800

  
Darci A. Carroll

MONTREUX ENERGY  
*is pleased to present the*

# MONTREUX ENERGY ROUNDTABLE XIV


June 16-18, 2003 • The Montreux Palace Hotel • Montreux, Switzerland

*"Renewing Dialogue and Partnerships in a Destabilized Energy World"*



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**MONTREUX ENERGY BIN S.A.**

11 Route de Drize • 1227 Geneva, Switzerland  
Telephone (4122) 827- 2338 • Telefax (4122) 827-2340

Richard McKean, *President*  
richard@MontreuxEnergy.com

[www.MontreuxEnergy.com](http://www.MontreuxEnergy.com)

**EXHIBIT**

**A**

## MONTREUX ENERGY

*Geneva, May, 2003*

Dear Friends,

The end of the Iraq war has not put to rest concerns about energy security, price volatility, and environmental and health impacts. Dialogue and partnerships, along with the application of new technologies, remain the positive course for industry in a destabilized energy world.

The future role of Iraq on world markets comes at a particularly sensitive time as the industry faces higher infrastructure costs in new frontiers and competition from new suppliers. Oil and gas prices remain key to power generation investment decisions and central to the choice of technological options for future mobility and power. Carbon sequestration may now be one important means of extending the life of carbon fuels. Beyond technology and geopolitics, Chinese and Indian policies on structural change and market liberalization have a major impact on demand. So too will the automobile industry as it seeks to supply more sustainable transport to meet consumers expectations.

Technology, know how, management and market adaptation remain important, but corporate leadership may be the important tipping effect that keeps the world from rolling backwards rather than forward to a more interdependent global economy where ultimately all have access to sustainable energy at reasonable cost.

We will have an outstanding group of industry and public leaders at Montreux in June to share their thoughts and concerns on how we can renew this dialogue and work towards partnerships to achieve a sustainable future. Our program with confirmed speakers is attached and more details including registration forms, logistical information, and program updates are available on our website: [www.montreuxenergy.com](http://www.montreuxenergy.com)

Mid-June is a particularly pleasant time to be near the Alps on Lake Geneva and the Montreux Palace Hotel and nearby sites is also an opportunity for accompanying spouses to enjoy the unique venue of the Montreux Energy Roundtable.

We look forward to seeing you in June!

With best wishes,

***Richard***

Richard McKean  
President  
[richard@montreuxenergy.com](mailto:richard@montreuxenergy.com)

**MONTREUX ENERGY BIN S.A.**

11 Route de Drize • 1227 Geneva, Switzerland  
Telephone (+4122) 827 2338 • Telefax (+4122) 827-2340

## **MONTREUX ENERGY ROUNDTABLE XIV**

June 16-18, 2003 • The Montreux Palace Hotel • Montreux, Switzerland

*"Renewing Dialogue and Partnerships in a Destabilized Energy World"*

**Monday June 16** 19:45-21:45 Registration and Opening Reception

**Tuesday June 17**

Session 1 **Middle East Crisis, Market Outlook, and Energy Security**  
8:45-10:45

- Claude Mandil Executive Director, **International Energy Agency** Paris
- Dr. Majid Al-Moneef, Advisor to the Minister, Ministry of Petroleum, Riyadh\*
- Ian Seymour, Editor Emeritus, **MEES Middle East Economic Survey**, Nicosia
- Vahan Zanoian, Chief Executive Officer, **PFC Energy**, Washington
- Jean-Marie Bourdair, Director of Studies, **World Energy Council**, London

Session 2 **Oil & Gas: Competition for Markets, Resources and Technology**  
11:15-13:00

- Ali Al Muhareb, Senior Vice President, Corporate Planning, **Aramco**, Dhahran
- Nick Zana, Chairman & Chief Executive Officer, **Nelson Resources**, London
- Peter Fleimisch, General Manager, **Addax & Oryx Group**, Geneva

Session 3 **Power: Outlook for Liberalization and Structural Change**  
2:00-16:00

- Zhao Dadi, Director General, Energy Research, **National Development and Reform Commission**, Beijing
- Dirk Beeuwsaert, Chief Executive Officer Electricity and Gas International, **Tractebel SA**, Brussels
- Steve Gehl, Director of Strategic Technology, **Electric Power Research Institute EPRI**, Palo Alto

Session 4 **Workshop Sessions**  
16:30-17:45

19:30 **Gala Dinner: Chateau de Chillon with spouses**

## **MONTREUX ENERGY ROUNDTABLE XIV**

June 16-18, 2003 • The Montreux Palace Hotel • Montreux, Switzerland

### **Wednesday June 18**

#### **Session 5 Mobility: The Search for Cleaner Options**

9:00-10:30

- Dr. Alessandro Ovi, Industrial Advisor to the President of the **European Commission**, Brussels
- Dr. James Seaba, Director Advanced Technology, **ConocoPhillips**, Bartlesville
- **Toyota** Speaker to be announced

10:30-11:00 Break

#### **Session 6: Carbon Sequestration and Corporate Action**

- Rod Judkins, Program Director Fossil Energy, **Oak Ridge National Laboratories**, Oak Ridge
- Joe Abrardo, Managing Director, Hydrogen, **Air Products**, Allentown\*
- Gardiner Hill, Manager, **BP Group** Environmental Technology, Washington
- Dr. Kjell Oren, Director EHS **Norsk Hydro**, and **World Business Council for Sustainable Development**, Geneva

13:00-14:30 Lunch

14:30-15:30 Roundtable Conclusions

All speakers confirmed except those marked\*

\* Indicates speaker invited but subject to confirmation. All other speakers confirmed.

#### **SPOUSES PROGRAM:**

A separate program with outdoor excursions will be organized for participating spouses. They are welcome at the opening reception and at the Gala Dinner in the Chateau de Chillon. Expect late spring weather with cool evenings and possible showers. Roundtable attire is coat and tie, while the Gala Dinner is more formal with business suit but not black tie.

Any subsequent program changes will be available on our website:

**[www.MontreuxEnergy.com](http://www.MontreuxEnergy.com)**

# MONTREUX ENERGY ROUNDTABLE REGISTRATION FORM

June 16-18, 2003 • The Montreux Palace Hotel • Montreux, Switzerland

**PLEASE FAX THIS FORM TO GENEVA: +4122-827-2340**

Please complete and fax this form to us as soon as possible to reserve a Roundtable seat. This must be received in Geneva, at the latest by May 30, 2003 to ensure a place at this year's Roundtable. Participation in the Montreux Roundtable is strictly limited to provide a meaningful dialogue among participants, so we urge you to register early. If you are unable to attend, but wish future invitations, we asked that you still return this form or contact us via email.

- ☐ Please register the below name. Deadline to register: **May 30, 2003**
- ☐ I am unable to attend, but please keep me on the Montreux Energy Invitation List
- ☐ Please Add or Modify Contact Details Below ☐ Remove the name below on your Invitation List
- ☐ Send an Invitation to the **HYDROGEN INFRASTRUCTURE ROUNDTABLE II** (October 8-10, 2003 in Denver)

Mr/Ms: \_\_\_\_\_ First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_  
 Title / Position: \_\_\_\_\_  
 Company / Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Suite / PO Box: \_\_\_\_\_  
 City: \_\_\_\_\_ State / Province: \_\_\_\_\_  
 Zip/Mail Code: \_\_\_\_\_ Country: \_\_\_\_\_  
 TEL: \_\_\_\_\_ FAX: \_\_\_\_\_  
 E-MAIL: \_\_\_\_\_  
 Website: \_\_\_\_\_

**Roundtable Payment:** The Roundtable Registration fee is \$2,500.00 or Swiss Francs SFr 3,500.00. This fee includes all Roundtable proceedings and documentation but not travel or hotel costs. We prefer payment to be made by bank transfer and can only accept VISA or MasterCard (Eurocard) credit card payments. Check or bank transfer payments must be made out to BIN Business Intelligence Network S.A. the parent company of Montreux Energy.

**Cancellation Policy:** Your registration will be confirmed along with a receipt once we have received payment. No refunds can be made after May 30 but we do accept substitutions at any time without charges. Refunds will be charged a service fee of \$250.

- ☐ **By check:** Please make payable to: **BIN Business Intelligence Network S.A.** Send to the address below.
- ☐ **By wire transfer to BIN S.A.:** Our bank details are: UBS Bank Geneva, Swift Bank Code UBSWCH3312A please insure payment is made to **BIN Business Intelligence Network S.A** for registration fee **Montreux Energy Roundtable**.

Wire transfer in Swiss Francs: UBS Account Number: 217 916 00 F Cost: SFr. 3,500.00  
 Wire transfer in US Dollars: UBS Account Number: 217 961 60 W Cost: US\$ 2,500.00

- ☐ **By credit card:** Please complete and return: Credit Card Payments automatically debited in Swiss Francs by **BIN Business Intelligence Network S.A**

We can only accept <input type="checkbox"/> VISA or <input type="checkbox"/> MasterCard (Eurocard)		Cardholders Name: _____
Card Number: _____	Exp: _____	
Signature: _____	Date: _____	

**Hotel Reservations and Key Information:** Once we have your completed Registration Form, hotel room reservation details will be sent to you. We have reserved a block of comfortable rooms at the Montreux Palace Hotel. Participants not staying in the Montreux Palace Hotel will be charged a fee of Swiss Francs 500 or \$350 to cover roundtable meal and beverage costs.

Richard McKean, *President*  
**Montreux Energy • BIN S.A.**  
 11 Route de Drize, PO Box 1811  
 1227 Geneva, Switzerland

Telephone (+4122) 827- 2338  
 Telefax (+4122) 827-2340  
 Email: richard@montreuxenergy.com



# MONTREUX ENERGY

## *— Recent Participants —*

ABB Energy Capital	ENEL Power SpA	Nuvera Fuel Cells
ACE USA Energy	Energy Conversion Devices	Oak Ridge National Laboratory
Air Products & Chemicals	Energy Future Coalition	OPEC
Akzo Nobel	ENI	PEMEX Petroleos Mexicanos
Alstom	Entergy Nuclear	Petrobras
American Petroleum Institute	Environmental Defense	Petro-Canada Inc.
Anadarko Petroleum	EPRI Worldwide	Pew Ctr on Global Climate Chg
Aral AG	Eskom	Plug Power, Inc.
Aramco Services Company	European Commission	Praxair Inc.
Arête Microgen Fund	Exxon Mobil	Proton Energy Systems
Arthur D Little	Fiat Auto R&D USA	Rocky Mountain Institute
ATK Thiokol	Fluor Daniel Corporation	Rolls-Royce Energy Systems
Atomic Energy of Canada Ltd.	Ford Motor Company	RWE Energie
Baker & McKenzie	Fort Collins Utilities	SABIC
Ballard Power Systems	FuelCell Energy, Inc.	SAIC
Bank of America Securities	GE Capital	SAM Private Equity
BASF AG	General Dynamics	Sasol Ltd
BC Hydro	General Hydrogen	Saudi Arabian Oil Company
Bear, Stearns	General Motors Corporation	Schlumberger Limited
Bechtel	Goldman Sachs	Shell Hydrogen
BG Group	Green Mountain Energy	Shell International
BMW AG	Greenpeace USA	Snamprogetti
BNFL British Nuclear Fuels	H Power Corp.	Sonatrach
BNP Paribas	H2Gen Innovations Inc.	StatOil ASA
Boeing - Rocketdyne	Halliburton Energy Services	STM Power
Booz Allen & Hamilton	HERA Hydrogen Storage Sys	Stuart Energy Systems Inc
BP Amoco plc	Honda R&D Co. Ltd.	Sulzer Hexis AG
California Air Resources Board	Honeywell Power Systems	Suncor Energy Inc.
Capstone Turbine Corporation	Hydrogen Source, LLC	Swiss Re
Caterpillar Inc	Hydro-Quebec CapiTech Inc.	Sydraft AB
CH2M Hill Companies	Hypercar, Inc.	Syntroleum Corporation
ChevronTexaco Tech Ventures	HyRadix Inc.	The World Bank
Chinese National Petroleum Corp	IEA International Energy Agency	TotalFinaElf
Chrysalix Energy Management	Institut Francais du Petrole IFP	Toyota Motor Corporation
Chubu Electric Power Co.	Johnson Matthey Fuel Cells	TransCanada PipeLines
Cinergy Corporation	Kellogg Brown & Root	TXU Europe
Colorado School of Mines	Kennecott Energy Company	U.S. Department of Energy
ComEd	Kuwait Petroleum	U.S. EPA
ConocoPhillips	Lockheed Martin	University of Colorado
Credit Suisse First Boston Corp	Los Alamos National Laboratory	Vestas Wind Technology
DaimlerChrysler AG	Lubrizol Corporation	Visteon
DeNora	McKinsey & Company	Volkswagen AG
Deutsche Bank	Methanex Corporation	Waukesha Engine
DuPont Co.	Millennium Cell	World Energy Council
Dynetek Industries Ltd.	Mitsubishi Corporation	World Resources Institute
Edison Electric Institute	National Renewable Energy Lab	Worldwatch Institute
EDS Global Energy Group	NEG Micon A/S	Xcel Energy
	Norsk Hydro ASA	
	Nth Power, LLC	

## MONTREUX ENERGY

**FOUNDED IN 1990**, Montreux Energy organizes four strategic forums on the future of global energy investment. Held annually in Switzerland, the **MONTREUX ENERGY ROUNDTABLE** convenes senior executives from the oil, gas, automotive, and power industries, their advisors, the finance and insurance communities, and public leaders from ministries and international organizations. The **ASPEN CLEAN ENERGY ROUNDTABLE** was created in 1994 to discuss investment in clean, sustainable energy and transportation solutions, including low emission vehicles, microturbines, distributed energy, and hydrogen and fuel cells. The **HYDROGEN INFRASTRUCTURE INVESTMENT ROUNDTABLE** is focused on investment in hydrogen production, storage, and delivery and fueling. The **CHINA-MONTREUX ENERGY ROUNDTABLE**, our newest roundtable, will be held October 15-17, 2003 in Beijing.

Since 1990, over 2,500 senior industry, government, and international leaders have taken part in the Montreux Roundtables. Participation is by invitation only and all sessions are "off the record" and closed to the press in order to facilitate an open and frank dialogue. We undertake no publishing or lobbying but do engage in advisory work on an ad hoc basis where we can assist clients and the industry to improve investment decisions. Montreux Energy is grateful for the ongoing advice and assistance provided by the **Montreux Energy Steering Committee**:

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Richard McKean, *President*  
 Montreux Energy • BIN S.A.  
 11 Route de Drize  
 1227 Geneva, Switzerland  
 Telephone (4122) 827-2338  
 Telefax (4122) 827-2340  
 richard@montreuxenergy.com

Andrew Bermingham, *Managing Director*  
 Montreux Energy I.L.C.  
 700 17<sup>th</sup> Street, Suite 1950  
 Denver, Colorado 80202 USA  
 Telephone 1-303-534-0193  
 Fax 1-303-534-0195  
 aberna@montreuxenergy.com

[www.MontreuxEnergy.com](http://www.MontreuxEnergy.com)